

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12269 of 2016

Arising Out of PS. Case No.-382 Year-2014 Thana- COMPLAINT CASE District- Banka

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1. Kedar Burnwal S/o Late Santu Prasad Burnwal,
 2. Meena Devi, Wife of Sri Kedar Burnwal,
 3. Neha Kumari, D/o Sri Kedar Burnwal,
 4. Vijay Kumar Burnwal S/o Sri Kedar Burnwal,
 5. Mala Devi @ Sudani Devi @ Suhani Devi, D/o Sri Kedar Burnwal, All resident of Bihar Colony, Chas, P.S. - Chas, Town & District - Bokaro.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Subh Lakshmi Bharti @ Dolly Kumari, Wife of Ajay Kumar Burnwal and D/o Sri Satyanarayan Burnwal, R/o Mohalla - Durbinia, P.S. - Chandan, District - Banka, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhendra Kumar
For the Opposite Party/s : Mr. Renuka Ratnakar, APP

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 04-07-2018

Seeking quashing of an order dated 06.09.2014 passed by the Sub Divisional Judicial Magistrate, Banka, taking cognizance in Complaint Case No. 382 of 2014 for offence under Section 498A of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act, this application has been filed under Section 482 of the Code of Criminal Procedure.

The complainant-respondent herein filed the complaint case in question and it was her contention that she was married to Ajay Kumar Baranwal on 02.06.2013 as per Hindu rites and at the time of marriage ornaments, furnitures and household articles



worth Rs.10 lacs were paid. It was alleged that the complainant started living with her husband in her sasural. For the first six months everything went very well but thereafter the accused persons, petitioners herein, used filthy language, harassed her and demanded dowry. On denial, it is said that she was tortured. On the aforesaid ground the complaint has been filed.

Petitioner no. 1 is a senior citizen and 62 years of old and is the father-in-law of the complainant. Petitioner no. 2 is also more than 60 years of old and is the mother-in-law of the complainant. Petitioner nos. 3 and 5 are the married daughters of petitioner nos. 1 and 2 and petitioner no. 4 is the son of petitioner nos. 1 and 2. The husband of the complainant Ajay Kumar Baranwal is not before this Court. He is said to be working in Indian Air Force as a Technician and posted in Gwalior, Madhya Pradesh.

Prayer has been made for quashing the complaint on the ground that the petitioners have been falsely implicated and on bare reading of the complaint would show that on the basis of the aforesaid no cognizance in the matter can be taken. Placing reliance on the judgment of the Supreme Court in the case of ***Gian Singh vs. State of Punjab [(2012) 10 SCC 303]*** and various other judgments of the Supreme Court in the cases of ***Kailash Chandra***



Agrawal vs. State of Uttar Pradesh [(2014) 16 SCC 551], Amit Kapoor vs. Ramesh Chander [(2012) 9 SCC 460] and Taramani Parakh vs. State of Madhya Pradesh [(2015) 11 SCC 260] prayer made is to quash the complaint.

On the contrary, the respondents opposed the prayer and submit that at this stage on the basis of the averments made the complaint cannot be quashed.

I have heard learned counsel for the parties and perused the records. The jurisdiction scope and power to be exercised by this Court under Section 482 Cr.PC has been considered by the Hon'ble Supreme Court in various cases. Most of the judgments relate to exercise of jurisdiction laid down the principle that the power of the High Court for quashing a criminal proceeding, an FIR or complaint, in exercise of its inherent jurisdiction is of wide plenitude with no statutory limitation but it has to be exercised within the guidelines as engrafted in the provision itself, that is to secure the ends of justice, to prevent abuse of the process of any court and to ensure that person is not unnecessarily harassed by false implication. If we scrutinize various judgments on the power available to this Court under Section 482 CrPC, it would be seen that the power is required to be exercised not by evaluating the defence or the justification given by the accused persons for a



particular occasion but the power is to be exercised by going through the body of the complaint or the FIR and in case a bare reading of the FIR or the complaint indicates that no offence is made out, jurisdiction under Section 482 CrPC can be exercised by this Court. In my considered view, the aforesaid are the cardinal principles of law laid down by the Hon'ble Supreme Court on a scanning of catena of judgments available on the subject in question. For the sake of convenience some of the judgments in this regard can be referred to hereinunder, namely :-

(1) The State of Haryana vs. Bhajanlal

1992 Supp(1) SCC 335

(2) M/s Indian Oil Corporation vs. M/s NEPC India Ltd.

(2006) 6 SCC 736

(3) State of Madhya Pradesh vs. Surendra Kori

(2012) 10 SCC 155

(4) M.A.A. Annamalai vs. State of Karnataka

(2010) 8 SCC 524

(5) Vinod Raghubanshi vs. Ajay Arora

(2013) 10 SCC 581

That being the legal position, I would now proceed to examine the complaint and the material available on record in the backdrop of the aforesaid legal principles and consider as to whether the facts as brought on record warrant interference.



As indicated hereinabove, the applicants herein are the parents, sisters and brother of the husband of the complainant Ajay Kumar Baranwal. Ajay Kumar Baranwal has not invoked the jurisdiction of this Court. The complaint is available at page-12 of the paper book marked as Annexure-1. The complaint is of less than three pages. In fact, it is only two-and-half pages. In the first page, description of the court, the complainant and the accused persons are given. The date of incident is indicated as on 22nd December, 2013 and continuously till the date of filing of the complaint, i.e. 03.03.2014. Thereafter, in the second page, the offence for which the complaint has been filed is indicated. Name of five witnesses are given and thereafter allegations commenced. It is indicated in the body of the complaint that the complainant was married as per Hindu rites in the year 2013 to the accused Ajay Kumar Baranwal and in the marriage the complainant's father by way of gift had given jewelery, furnitures, utensils, clothes etc. to the tune of Rs. 10 lacs. It is said that after the marriage the complainant went to her in-laws' house to stay with her husband. For the first six months everything went on smoothly and thereafter it is alleged that as a general statement that all the accused persons started abusing and assaulting her. It is alleged that they used to say that your are not good-looking, if you want to



stay in this house bring five lacs more as dowry, and when the complainant refused to do so, it is alleged that she was harassed mentally and assaulted. She had made a complaint regarding these incidents to the people of the village and also to her parents. Narrating the aforesaid incident the complaint has been filed. Apart from making the aforesaid narration of facts nothing is indicated in the body of the complaint as to how, when and in what manner the petitioners herein treated the complainant and dealt with her in a manner which is not permissible under law or which amounts to an offence under the relevant provision on which the complaint has been registered. Records further indicated that at the instance of the husband before the Family Court at Bokaro, Jharkhand, proceeding for dissolution of marriage are pending. The question now before this Court is as to whether on a bare reading of the complaint the offence as alleged is made out.

From the aforesaid narration of facts it is clear that general vague and omnibus allegations are made with regard to demand of dowry and harassment. Specific details with regard to the nature of harassment, the role played by each of the petitioners in harassing the complainant, and even the place and dates when the harassment was made are not indicated. Petitioner nos. 3, 4 and 5 are the sisters and brother-in-law of the complainant and nothing



is indicated as to what is the nature of commission and omission is not made out from the reading of the complaint. Question of quashing a criminal proceeding for an offence of identical nature under Section 498A IPC has been considered by the Supreme Court in the case of ***Taramani Parakh*** (supra) and in paragraph-10 of the judgment the Hon'ble Supreme Court observed that if allegations are absurd or do not make out any case and particularly in matrimonial cases when omnibus allegations are made against the relatives who are not generally concerned with the affairs of the couple quashing of the complaint may be permissible. Reference is made to the judgment of the Supreme Court in the case of ***Amit Kapoor*** (supra) to lay down a proposition that if the allegations are found to be absurd and improbable, power can be exercised for quashing such complaint as the process of the court cannot be used for oblique or ulterior motive. Thereafter reference has been made to the judgment in the case of ***Kansraj vs. State of Punjab [(2000) 5 SCC 207]***, wherein the Hon'ble Supreme Court observed that in the recent years a tendency has been developed to rope in all relations and in-laws of the wife in matrimonial dispute and prosecution is launched against all the family members. It has been observed by the Supreme Court that summoning all relatives



without any specific material should be avoided. For that also, there should be cogent material available on record.

In the present case, a bare reading of the complaint indicates that omnibus general allegations are made and nothing is indicated as to how and in what manner the offence was committed and what is the act attributed to each of the petitioners which amounts to demand of dowry, harassment etc.

Taking note of all these aspects and the principles of law as discussed hereinabove in the totality of the facts and circumstances of the case, I am of the considered view that it is a fit case where the complaint is liable to be quashed on the ground that it does not disclose commission of an offence as alleged.

Accordingly, this application is allowed. Proceeding in Complaint Case No. 382 of 2014 pending in the court of Sub Divisional Judicial Magistrate, Banka is quashed.

(Rajendra Menon, CJ)

mrl./-

AFR/NAFR	NAFR
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